

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

RAMONIA CARTER

PLAINTIFF

v.

CIVIL ACTION NO. 1:11CV255-B-A

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

REPORT AND RECOMMENDATION

This case involves an application for judicial review of the decision of the Commissioner of Social Security denying plaintiff's application for Supplemental Security Income disability benefits. On September 18, 2012 the court approved and adopted a report and recommendation by the undersigned and remanded this action to the Administration Law Judge for further evaluation. The plaintiff has now petitioned for an award of attorney fees of \$2,896.65 under the Equal Access to Justice Act, 28 U.S.C. Section 2412(d), and an award of \$71.00 in costs for reimbursement of the fee of the U.S. Marshall for service of process. Defendant does not object to the amount of fees requested, but does object to an award of costs. Defendant maintains that the \$71.00 cost of the U.S. Marshall Service for service of process is not recoverable because a plaintiff proceeding *in forma pauperis* may not recover costs against the federal government.

The undersigned has reviewed the motion and the record. Plaintiff's motion to proceed *in forma pauperis* was granted on December 14, 2011. The statute permitting *in forma pauperis* filings specifically bars an award of costs against the United States. 42 U.S.C. § 1915(f)(1) Accordingly, the undersigned recommends that defendant only pay the plaintiff \$2,896.65 in attorney's fees pursuant to the Equal Access to Justice Act.

The parties are referred to 28 U.S.C. §636(b)(1)(B) and FED. R. CIV. P. 72(b) for the

appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within fourteen (14) days of this date and “a party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within [14] days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court” *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*) (citations omitted).

Respectfully submitted, this the 10th day of December, 2012.

/s/ S. Allan Alexander
UNITED STATES MAGISTRATE JUDGE

